

Libby 041



RE: Soil removed from OU-1
DC Orr

1258937 - R8 SDMS

to:

robinsdesk, Bill Bischoff, Sonya Pennock, barbdesch, bigskylawyer, Doug Roll, glena.young, jim.hammons, Peggy Williams, Rebecca Thomas, vicky lawrence, Tony Berget

02/22/2011 01:36 PM

Cc:

Carol Campbell, Sean Earle, candareports, Duane Williams, Lee Bothman, news
Show Details

2 Attachments



scan0012.jpg scan0013.jpg

Councilwoman Benson;

Thanks for the response. The utility of this method of communication is that you will never be able to say that restoration was not a valid issue, only that you refused to discuss obtaining \$2 million for the Park restoration.

I am going to continue to forward information that proves we should get restoration compensation. Here you will see a letter from Attorney Scott Spencer requesting, on behalf of the City of Libby, four new buildings and a waterline. The City graciously allowed that \$15,000 waterline to replace the smallest building that was destroyed.

Since I am not invited to your Friday lunches with Commissioner Berget, where you discuss these issues in secret, can you tell me what method of communication would be preferable to you to discuss our restoration compensation?

Understand that I will not engage in secret communications on this public issue. I see your unwillingness to engage in public discussion as an affirmation that you will attempt to sabotage these negotiations.

Why would you pass up \$2 million for building our Park?

Sincerely, DC Orr

Date: Tue, 22 Feb 2011 10:48:08 -0800

From: robinsdesk@yahoo.com

Subject: Re: Soil removed from OU-1

To: xcav8orr@hotmail.com; billb@libby.org; pennock.sonya@epamail.epa.gov; barbdesch@gmail.com; bigskylawyer@yahoo.com; dproll@yahoo.com; glena.young@cityoflibby.com; jim.hammons@cityoflibby.com; flourgardener@yahoo.com; thomas.rebecca@epamail.epa.gov; montanavicky@gmail.com; tberget@libby.org
CC: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov; candareports@gmail.com; klcb@frontiernet.net; theprintingpress@gmail.com; news@montanian.com

Dear Councilman Orr,

My lack of response to you is of no indication as to whether I agree or disagree with your issue. My lack of response is my choice to not participate or engage in your methods of communication.

Sincerely,
Robin A. Benson

From: DC Orr <xcav8orr@hotmail.com>

To: Bill Bischoff <billb@libby.org>; pennock.sonya@epamail.epa.gov; barbdesch@gmail.com; bigskylawyer@yahoo.com; Doug Roll <dproll@yahoo.com>; glena.young@cityoflibby.com; jim.hammons@cityoflibby.com; Peggy Williams <flourgardener@yahoo.com>; Rebecca Thomas <thomas.rebecca@epamail.epa.gov>; robinsdesk@yahoo.com; vicky lawrence <montanavicky@gmail.com>; Tony Berget <tberget@libby.org>

Cc: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov; candareports@gmail.com; Duane Williams <klcb@frontiernet.net>; Lee Bothman <theprintingpress@gmail.com>; news@montanian.com

Sent: Tue, February 22, 2011 7:27:30 AM

Subject: RE: Soil removed from OU-1

Mr. Bischoff and silent partners;

The highlighted area in scan 0010 makes it clear that EPA expected to either restore our property or pay cash compensation. The highlighted area in scan 0011 makes it clear that "building reconstruction" was the planned method of restoration. Since the infrastructure was not replaced, that leaves ONLY cash compensation.

In fact, according to Item # 2.15 in scan 0010, we even get to approve the drainage. Why has EPA made us fight for that when they know it is required?

EPA is hiding the appraisal that would tell us how much cash they owe us. We are going to need this cash to ever finish this Park. When we don't have money to finish this Park, I will hold each and every one of you accountable to the voters for failing to pursue restoration compensation.

Because EPA was going to remove ALL contamination, the only IC's required were to be in the repository at the mine. Now EPA is saying that IC's are required because they left material behind that leaves the pathways of exposure to a substance of unknown toxicity wide open. This issue is harming human health at OU-1.

Any of you who are compromised by your relationship to former Mayor, now Commissioner, Berget have got to either come off of the fence on this issue, or declare your conflicts of interest.

Mr. Bischoff has made clear his allegiance and our Attorney Payne has acknowledged his conflicts. Who amongst you would deny pursuing restoration compensation for the people you serve?

When Mr. Bischoff says that "lack of a response by Council members is not an indication of anything", he is misdirecting the issue. The entire "Tony team" and Mrs. Lawrence are not responding in an effort to avoid an issue where they have conflicts of interest. These conflicts must be dealt with by disclosure, not concealment. Lack of response is an indication of complicity.

I believe, if disclosure comes forth, Councilwoman Williams and I are the only Council members not compromised in our ability to make decisions on OU-1. On this issue, there are only two members who can vote. If anyone disagrees, come forth and speak your piece.

I am asking our Clerk Hook to add this discussion to the public record contained in our minutes. Please leave it open for the responses from the other Council members now that Mr. Bischoff has responded.

We cannot move to Remedial Action on OU-1 until we clarify these issues.

Sincerely, DC Orr

From: xcav8orr@hotmail.com

To: billb@libby.org; pennock.sonya@epamail.epa.gov; barbdesch@gmail.com;
 bigskylawyer@yahoo.com; dproll@yahoo.com; glena.young@cityoflibby.com;
 jim.hammons@cityoflibby.com; flourgardener@yahoo.com; thomas.rebecca@epamail.epa.gov;
 robinsdesk@yahoo.com; montanavicky@gmail.com; tberget@libby.org
 CC: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov
 Subject: RE: Soil removed from OU-1
 Date: Mon, 14 Feb 2011 15:22:44 -0700

Mr. Bischoff;

I fully expected Commissioner Bergets' executive assistant to respond in this manner. Thank you.

You have failed to voice any concrete opinion on the matter. Are you in agreement that we need to pursue the \$2 million in restoration compensation or not. What would be your specific reasons for wanting to let \$2 million slip through our fingers if you oppose these negotiations?

The other Council members will have to answer these same questions when we go to the voters for funding.

Sincerely, DC Orr

From: billb@libby.org
 To: xcav8orr@hotmail.com; pennock.sonya@epamail.epa.gov; barbdesch@gmail.com;
 bigskylawyer@yahoo.com; dproll@yahoo.com; glena.young@cityoflibby.com;
 jim.hammons@cityoflibby.com; flourgardener@yahoo.com; thomas.rebecca@epamail.epa.gov;
 robinsdesk@yahoo.com; montanavicky@gmail.com; tberget@libby.org
 CC: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov
 Subject: RE: Soil removed from OU-1
 Date: Mon, 14 Feb 2011 12:45:27 -0700

Mr. Orr:

Please clarify in the 7th (seventh) paragraph that this is your request and not the Council's. Your use of the word "our" infers that it is the Council's request.

Lack of response by Council members is not an indication of anything and should not be taken as any type of agreement with your actions or requests. (Refer to your last paragraph)

Bill Bischoff

From: DC Orr [mailto:xcav8orr@hotmail.com]
Sent: Monday, February 14, 2011 12:32 PM
To: pennock.sonya@epamail.epa.gov; barbdesch@gmail.com; bigskylawyer@yahoo.com; Bill Bischoff; Doug Roll; glena.young@cityoflibby.com; jim.hammons@cityoflibby.com; Peggy Williams; Rebecca Thomas; robinsdesk@yahoo.com; vicky lawrence; Tony Berget
Cc: campbell.carol@epamail.epa.gov; earle.sean@epamail.epa.gov
Subject: RE: Soil removed from OU-1

Ms. Campbell;

EPA has stated that they would take another look at this issue if new information came into play. EPA has refused to look at new information when provided. EPA is being purposely deceptive on this issue in an effort to deceive and defraud the people of Libby out of their rightful restoration compensation.

The attached document shows that EPA's position that the buildings were in poor shape when Grace gave them to the City is a position without merit. The buildings were damaged, with EPA oversight, by WR Grace under Unilateral Administrative Order by EPA's own admission. Ms. Thomas obviously did not have this information when she made that statement and added it to the ROD. Please correct her misinformation and respond to EPA's admission that the buildings were harmed by EPA Unilateral Order.

EPA has also refused to acknowledge the new information in this document which shows that a Restoration Plan was required after demolition of City buildings was ordered by EPA. EPA has stated that no Restoration Plan was required after demolition of City buildings was ordered by EPA. EPA lied about this document before, and we found the document anyway. EPA is being purposely deceptive in their response concerning the Restoration Plan. This document states that a new Restoration Plan was being required after the order to demolish. Please correct your previous misinformation and supply the required Restoration Plan developed after the order to demolish City buildings.

Former City Councilman Dan Stephens submitted new information stating that the City Council never made any final decisions on OU-1. This new information directly conflicts with EPA's statement in the ROD that the City of Libby accepted a waterline in lieu of restoration compensation for the demolished buildings. EPA admits that there is no written agreement to accept this waterline. The lack of a written agreement is new information that challenges EPA's position on restoration compensation. Please correct your previous misinformation that was discredited by the new information.

Further new information will be forthcoming when EPA releases the appraisal documentation required under the UAO which I requested.

Further new information will be forthcoming when EPA requests the documents that WR Grace was required to retain as part of the UAO. I have requested EPA secure that information from Grace before the ten year retention period passes this coming summer as written in the UAO.

I have included the members of the City Council in this memorandum. Consider this our request to visit this issue publicly with EPA and have open negotiations for Restoration before moving to discussions on Remedial Action. Any sitting Councilperson who wants to oppose this move to obtain \$2 million for development of Riverfront Park has the opportunity to make their opposition clear in this public forum by responding via email with their reasons for opposing restoration compensation.

I have also included former Mayor Berget and will be asking him publicly to explain to this Council what he and the former Councilmembers can add to this discussion.

I have not included Commissioner Berget's attorney Allen Payne because Mr. Payne has set conditions in his agreement with the City that exclude him from this conversation because of his conflicts.

A lack of response from Councilmembers can be taken as clear indication that every member is in agreement in moving toward Restoration of OU-1 before we discuss Remedial Action. Please have a public response to these new questions ready at our next meeting with EPA.

Sincerely, DC Orr

> Subject: RE: Soil removed from OU-1
 > To: xcav8orr@hotmail.com
 > CC: Campbell.Carol@epamail.epa.gov; Earle.Sean@epamail.epa.gov
 > From: Pennock.Sonya@epamail.epa.gov
 > Date: Mon, 14 Feb 2011 11:26:58 -0700
 >

> EPA has responded previously that we consider the issue of the buildings
 > that were demolished during W.R. Grace's work at OU1 to be closed. If
 > the City Council considers it otherwise, the Council should let EPA
 > know.

> Regarding the drainage issue, we have previously responded that we will
 > address drainage issues during the remedial action at OU1.

> Sonya Pennock
 > Office of Communications & Public Involvement
 > US/EPA Region 8
 > 1595 Wynkoop Street
 > Denver, CO 80202-1129
 > Phone: 303-312-6600

> From: DC Orr <xcav8orr@hotmail.com>
 > To: Sonya Pennock/R8/USEPA/US@EPA, Sean Earle/R4/USEPA/US@EPA,
 > Carol Campbell/R8/USEPA/US@EPA
 > Date: 02/11/2011 06:47 AM
 > Subject: RE: Soil removed from OU-1

> Ms. Pennock;
 > It has been months since I disproved the EPA statements concerning
 > restoration plans on OU-1. Will EPA acknowledge receipt of this email
 > and explain the contradiction between their statements that a
 > Restoration Plan was not required after the order of demolition and the
 > requirement for a Restoration Plan found in this document?

> Sincerely, DC Orr
 > From: xcav8orr@hotmail.com
 > To: pennock.sonya@epamail.epa.gov
 > Subject: FW: Soil removed from OU-1
 > Date: Mon, 11 Oct 2010 06:50:11 -0600

> Ms Pennock;
 > I don't see that you have ever responded to this information.
 > DC

> From: xcav8orr@hotmail.com
 > To: pennock.sonya@epamail.epa.gov
 > Subject: Soil removed from OU-1
 > Date: Thu, 2 Sep 2010 14:02:22 -0600

> Ms. Pennock;
 > The City Council has had discussions with EPA and Corps reps concerning
 > the drainage problems that cropped up on OU-1 after Removal Action.
 > I have attached a page from the Action Memorandum Amendment dated
 > July 20, 2001 which indicates that 14,149 cubic yards of material were
 > removed and only 12,500 brought in as backfill. This is probably why the
 > property no longer drains properly.
 > This page also refers to the damage done to those buildings during
 > abatement with EPA oversight. This discounts the statement in the ROD,
 > and Rebecca Thomas' 9-3-09 correspondence, that the buildings were in
 > bad shape. They were damaged by abatement beyond repair. With EPA
 > oversight.
 > Also, note the end of the last line in the first paragraph which
 > reads, "EPA will direct Grace to demolish the buildings, while

> alternative restoration plans are being developed". EPA has stated that
> the requirement for restoration plans was dropped when the buildings
> were demolished. The statement is not supported by the public record
> which requires a restoration plan be developed AFTER demolition. Please
> supply this restoration plan to the Libby City Council. Make sure that
> you let me know when you send it so I can request it from our Mayor. He
> has a bad habit of "forgetting" to let Council know about his
> correspondence with EPA.
> Sincerely, DC Orr
>